IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 29TH JUNE 2007 / 8TH ASHADHA 1929

Crl.MC.No. 2096 of 2007()

CC.915/2002 of CHIEF JUDL.MAGISTRATE, ERNAKULAM

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PETITIONER/ACCUSED

VASAVAN K.K., KALATHIPARAMBIL,
CHENNAMANGALAM, PARUR.

BY ADV. SRI.N.K.MOHANLAL

RESPONDENTS/COMPLAINANT NO.1

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1. ROSE MARY GEORGE,
PROPRIETOR, ANAMDEV INDUSTRIES,
REPRESENTED BY HER POWER HOLDER
P.D.MATHEW, S/O P.V.DEVASSY,
CHITTOOR ROAD, ERNAKULAM.

2. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

3. SUB INSPECTOR OF POLICE,
VADAKKEKARA, NORTH PARUR.

BY PUBLIC PROSECUTOR SRI. S.U. NAZER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 29/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.2096 of 2007

Dated this the 29th day of June, 2007

ORDER

The petitioner faces indictment in two separate prosecutions, both under Section 138 of the Negotiable Instruments Act and both initiated by the same complainant. The petitioner was not available for trial in these two cases. Thereupon, the learned Magistrate has transferred one case to the list of Long Pending Cases. One is pending as C.C.No.915 of 2002 and the other is pending as L.P No.238 of 2005. Coercive processes issued by the learned Magistrate in these two cases are chasing the petitioner and the petitioner in these circumstances has come to this Court with this petition seeking relief in both those cases.

2. The learned counsel for the petitioner submits that the petitioner is innocent of the allegations in both cases. His absence was not wilful. He is willing to appear before the learned Magistrate and seek regular bail. He apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He therefore prays that appropriate directions may be issued under Section 482 Cr.P.C in his favour.

3. Considering the nature of the limited prayer raised in this Crl.M.C, I am not worrying myself about the technicality that two

separate applications must have been filed by the petitioner, who seeks relief in two different cases. That technicality is ignored. I am not satisfied that there is any justification in the prayer for invocation of the powers under Section 482 Cr.P.C.

4. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

5. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

6. Hand over a copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

rtr/-